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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,711	09/05/2003	Mark T. Ryan	UNA6053P0341US	8276

32116 7590 12/28/2004

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 W. MADISON STREET  
SUITE 3800  
CHICAGO, IL 60661

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/656,711

Applicant(s)

RYAN ET AL.

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6, 13-15, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 7-12 and 16-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/31/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's submittal of a preliminary amendment was received on April 12, 2004, wherein claims 1-5 were cancelled and new claims 6-23 were added.

### *Claim Objections*

2. Claim 1 is objected to because of the following informalities: In line 8, Applicant sets forth "a camming member" mounted on the chassis, then in line 15, sets forth "said camming members", which indicates that there are more than one. Examiner suggests changing lines 15-16 to "wherein said camming member is mounted to the front end of each of the lower tubular ends,". Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fosbrook, Sr. (US Patent 3,015,494) in view of Kern et al. (US Patent 5,865,448).** Fosbrook, Sr. discloses a shopping cart (10), which is nestable into a preceding, similarly constructed cart and into which a following, similarly constructed cart is nestable (See Fig. 9), comprising a

chassis (12), which has a front end and a back end (See Fig. 1), which has front and rear casters (32,34), including two rear transversely spaced casters, and which has two generally longitudinal members (16,18), each extending along one side of the chassis, between the front and back ends of the chassis; a camming member (48) mounted on the chassis and a transversely extending member (28) bridging the generally longitudinal members; and an upright frame member (43) including upright legs (44) with lower tubular ends, wherein said camming members are mounted to the front end of the lower tubular ends (See Fig. 1), and adapted to upwardly cam the transversely extending member of a preceding, similarly constructed cart into which the shopping cart is being nested, so as to elevate the rear casters of the preceding shopping cart (See Fig. 9). Fosbrook, Sr. does not disclose wherein said lower tubular ends are secured to said longitudinal members in a substantially parallel orientation thereto at a position intermediate the chassis front and back ends with said lower tubular ends extending toward said chassis front end from said upright legs. Kern et al. discloses wherein said lower tubular ends (38) are secured to said longitudinal members (8) in a substantially parallel orientation thereto at a position intermediate the chassis front and back ends with said lower tubular ends extending toward said chassis front end from said upright legs (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to secure the lower tubular ends of the upright legs disclosed in Fosbrook, Sr. in the manner disclosed in Kern et al. The motivation for doing so would have been to extend the weld between the lower tubular ends and the longitudinal members, so that the connection between the two is stronger.

5. **Claims 13-14 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fosbrook, Sr. (US Patent 3,015,494) and Kern et al. (US Patent 5,865,448) as applied**

to claims 1 and 15 above, and further in view of Wanzi (GB 2,176,444). Fosbrook, Sr. is silent as to the material of the cam members being a molded polymer such as nylon. Wanzi discloses a camming member (30) made from plastic, preferably polyamide, which is nylon. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to make the camming members disclosed in Fosbrook, Sr. out of nylon (molding plastic/polymer) in view of the teaching of Wanzi. The motivation for using nylon would be to help the frame slide smoothly into the nested position, without damaging the metal frame members.

*Allowable Subject Matter*

6. Claims 7-12 and 16-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

7. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or

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relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

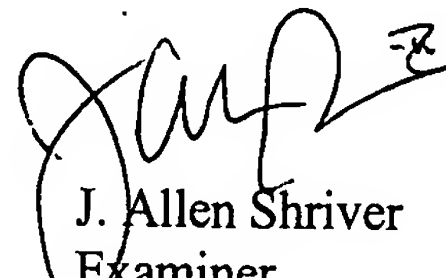
As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monday, December 20, 2004

 12/20/04  
J. Allen Shriver  
Examiner  
Art Unit 3618

JAS